IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.794 OF 2006

Janardhan Mahadeo Gund .. Appellant.
Vs.
Ramchandra Sidram Kurane & Ors. .. Respondents.

Mr.G.S.Godbole for the appellant.
Mr.N.J.Patil for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATED : 13TH NOVEMBER, 2006

P.C.:

. Heard learned counsel for the petitioner and respondent no.1.

2. This appeal is directed against the concurrent findings recorded by the courts below. The appellant-defendant claim to be a tenant in the suit premises and seeks protection of his tenancy right under the Bombay Rent Act. Mr.Godbole, learned counsel for the appellant raised two questions. Firstly, the adoption deed on the basis of which the respondent-plaintiff claims the right in the suit property is not admissible in the evidence. The adoption deed has not been proved in the evidence and it ought not to have been read in the evidence merely because it was a certified copy of the adoption deed.

Secondly, he submitted that the trial Court has committed grave error of law in overlooking the rent receipts of the year 1961-62, 1962-63 and 1965-66 and holding that they were not produced at the first instance i.e. before the trial Court when the appellant-defendant had sufficient opportunity to produce them in the trial. I perused the judgment of both the courts below. The appeal court has considered the rent receipts of 1962 to 1966 and has held that the rent receipts, allegedly issued by Gurushidhappa, the original owner of the property, had died in 1927 and in view thereof the rent receipts are bogus and ambiguous documents and cannot be relied upon to uphold the contention of the appellant that he was tenant in the suit premises. Insofar as the adoption deed is concerned, even if what Mr.Godbole, learned counsel for the appellant submitted is accepted still that would not have any effect on the rights of the appellant-defendant. It is clear from the judgment of the appeal court and in particular paragraph 12 and 13 thereof that the appellant was a trespasser in the suit property and he failed establish any right whatsoever over the same. Merely because, some municipal tax receipts were issued in respect of suit premises it does not mean that the possession of the appellant, as claimed by him, was as a tenant and he is entitled for protection under the

Bombay Rent Act. In my opinion, no substantial question of law is involved in the present case. Keeping that in view and considering the concurrent findings of facts recorded by the courts below and as I find that there is sufficient material on record to sustain those findings and considering the extremely limited jurisdiction of this Court under section 100 of C.P.C. to disturb the findings of fact, this appeal fails and is dismissed as such.

(D.B.Bhosale, J.)